

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

SHELDON MORALES and
EDUARDO SANTANA

No. 19 CR 850

Judge Mary M. Rowland

GOVERNMENT'S RESPONSE TO
DEFENDANTS' SENTENCING MEMORANDA

Exhibit 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs. } No. 19 CR 874-1

DARIUS J. MORALES, } Chicago, Illinois
Defendant. } June 10, 2022
 } 1:00 p.m.

TRANSCRIPT OF PROCEEDINGS - Sentencing

BEFORE THE HONORABLE AMY J. ST. EVE

APPEARANCES:

For the Plaintiff: UNITED STATES ATTORNEY'S OFFICE
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Also Present: MS. KATHY KIRIKLAKIS, U.S. Probation

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1 (Proceedings heard in open court:)

2 THE COURT: Good afternoon.

3 THE CLERK: 19 CR 874, USA versus Darius Morales.

4 MR. MULANEY: Good afternoon. Charles Mulaney on
5 behalf of the United States.

6 MS. SINGER: Good afternoon, Your Honor.

7 Dena Singer and Jonathan Bedi on behalf of Darius
8 Morales.

9 THE COURT: Good afternoon.

10 MR. BEDI: Good afternoon.

11 MS. KIRIKLAKIS: Good afternoon, Your Honor.

12 Kathy Kiriklakis, U.S. Probation.

13 THE COURT: You are here for sentencing today. Are
14 you ready to proceed?

15 MS. SINGER: Yes, Your Honor, the defense is ready to
16 proceed.

17 MR. MULANEY: And yes for the government, Your Honor.

18 THE COURT: Are you comfortable coming up to the
19 Lectern?

20 MS. SINGER: If you prefer --

21 THE COURT: That would be my preference, but if you
22 are not comfortable with that, I will certainly respect that.
23 And if the defendant could come up, please, as well.

24 Mr. Morales, have you received the Presentence
25 Investigation Report in this case, sir, and reviewed it with

1 Ms. Singer?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And your prior counsel filed objections
4 to it. Ms. Singer has filed additional objections to it.

5 Have you seen and discussed those objections with
6 Ms. Singer?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Other than the issues filed with the
9 Court already on your behalf -- so other than what Ms. Singer
10 has raised and other than what your prior counsel raised -- do
11 you have any other comments, corrections, or objections to the
12 information in the Presentence Investigation Report, sir?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: And, Ms. Singer, I have received your
15 submissions, including the letters.

16 Is there anything else in terms of submissions for
17 the Court that you want to -- you want to raise? I'll hear
18 oral argument on what you have set forth in your materials, but
19 I want to make sure you don't have any other filings.

20 MS. SINGER: I have no other filings, Your Honor.

21 THE COURT: Okay. And same on behalf of the
22 government?

23 MR. MULANEY: Yes, Your Honor.

24 THE COURT: And, Mr. Morales, I have the Presentence
25 Investigation Report before me. Did you have sufficient time

1 to review this with your lawyer?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: I want to make sure. And she was able to
4 answer all of your questions regarding the information in here;
5 is that correct?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. So let's turn to the
8 guideline calculation.

9 Mr. Mulaney, I did not get any written responses from
10 you to the guideline calculations. So I assume you're going to
11 present them orally this morning to the guideline objections?

12 MR. MULANEY: Yes, Your Honor.

13 THE COURT: All right. So there is -- on Count One
14 there is a base offense level of 24, and there's no objection
15 to that. And that is pursuant to 2K2.1(a)(2).

16 The specific offense characteristic there, the
17 probation officer is recommending a four-level enhancement
18 under 2K2.1(b)(6)(B) because the firearm recovered from the
19 Jeep was brandished and discharged at someone in the alley.

20 And you have objected to this enhancement,
21 Ms. Singer. I have read everything you submitted and prior
22 counsel did as well. I will consider all of those arguments as
23 well.

24 Is there anything else you would like to add or
25 elaborate on or reiterate with respect to the 2K2.1(b)(6)(B)

1 objection for using or possessing a firearm or ammunition in
2 connection with another felony?

3 MS. SINGER: I would, Your Honor.

4 THE COURT: Okay. Please, go ahead.

5 MS. SINGER: As Your Honor referenced, our objection
6 to the enhancement under 2K2.1(b)(6)(B) is laid out in our
7 sentencing memorandum on pages 19, 20, and the majority of page
8 21.

9 The majority of that section does relate back to the
10 jury that was held in this case and our position that there was
11 not sufficient evidence for this enhancement based on the
12 testimony and evidence that was presented at trial.

13 Furthermore, in addition to that, Your Honor -- well,
14 Mr. Morales at this juncture and throughout this case maintains
15 his innocence regarding the possession as well as this
16 shooting. If Your Honor believes that there is sufficient
17 evidence that was presented, I still object to this
18 enhancement. Because in order for this enhancement to apply,
19 the Court has to find that it was in connection with another
20 felony.

21 Now, the government in their submission prior to me
22 taking over this case for Mr. Morales, there was -- I think
23 it's docket 121, Your Honor -- if I could have one moment just
24 to be sure of that -- docket 121 was the government's response
25 or the government's kind of sentencing memorandum.

1 THE COURT: Sentencing memo.

2 MS. SINGER: They argue in that that the four points
3 should apply because he attempted to kill or cause bodily harm
4 to the intended victim.

5 Now, I understand and as the Court and Mr. Morales
6 understands that in order for this enhancement to apply, the
7 government need not prove it beyond a reasonable doubt.

8 However, in order for this enhancement to apply, they
9 have to allege sufficient proof that it was in connection with
10 another felony. And that has not been established. There is
11 contention that it was with an attempt to kill.

12 There's been no evidence, either presented in
13 filings, in written submissions or at the trial that was held,
14 that there was a specific intent to kill somebody. And as Your
15 Honor is aware, every time a firearm is shot does not lead to
16 the intent to kill, which is a specific intent crime under the
17 State of Illinois.

18 This was not charged as an attempt murder in federal
19 court, and there has not been sufficient evidence that even if
20 Your Honor finds that he shot the gun that it was in connection
21 with another felony.

22 And therefore, based on our submission, we ask that
23 that four points -- and our oral argument that those four
24 points not apply.

25 THE COURT: Ms. Singer, I certainly understand your

1 argument. The Presentence Investigation Report has recommended
2 this enhancement because the other felony offense was an
3 aggravated discharge of a firearm.

4 I understand that the government -- what they said in
5 the submission at 121 that was filed on November 15th of last
6 year, and I certainly understand your argument with respect to
7 that, but that's not what probation recommended.

8 I don't know if you have anything else you want to
9 add about the aggravated discharge of a firearm.

10 MS. SINGER: Well, in terms of aggravated discharge
11 of a firearm, Your Honor, that it's -- the elements of
12 aggravated discharge of a firearm are that you fired a weapon
13 in the direction. It's often seen in connection with another
14 vehicle or a vehicle that you knew a person was in or that
15 fired in the direction of a person.

16 There's -- and in this case, besides the fact that we
17 do not feel that there has been sufficient evidence that
18 Mr. Morales was the shooter at all, because of that there's no
19 one that testified that he shot at them; and therefore, the agg
20 discharge -- excuse me -- aggravated discharge doesn't apply
21 either for the four-point enhancement.

22 THE COURT: Thank you, Ms. Singer.

23 Mr. Mulaney.

24 MR. MULANEY: Yes, Your Honor. Our position is that
25 either way that the enhancement is satisfied. Aggravated

1 discharge is satisfied here because the defendant was shooting
2 a gun in the direction of the man in red and black that
3 Mr. Brian O'Malley saw in the alley. Mr. O'Malley saw the Jeep
4 in the alley. He saw the passenger door open. He saw a
5 shooter wearing dark clothing outside the Jeep shooting towards
6 the man in red and black who was running towards that white van
7 where the bullet holes were found.

8 O'Malley looked away, and then Melissa Coward heard
9 shots, and then she saw a man in dark clothing getting into the
10 Jeep. And we know it was the defendant in that passenger seat,
11 because after he crashed, the Northwestern student, Alan
12 Grampp, saw the -- both the driver and the passenger getting
13 out, and he described them consistent with the surveillance
14 footage that picked them up at the scene. And he described the
15 driver, Twan Daniels-Robinson -- it turned out to be Twan
16 Daniels-Robinson -- wearing a white jacket coming out of the
17 driver's side, and the passenger-side passenger was wearing
18 dark-colored clothing.

19 We know it was the shooter who was in the passenger
20 seat based on the witnesses in the alley, and it would make
21 sense that the shooter would be the passenger rather than the
22 driver, because when you're pointing and shooting someone and
23 then getting away, usually there's a driver, and there's a
24 shooter. When you have two people, it makes sense to divide up
25 responsibilities.

1 So on top of that, you have the defendant's DNA and
2 his fingerprint on the gun. And Mr. Twan Daniels-Robinson was
3 excluded as the DNA contributor and also did not leave a print
4 on the gun.

5 So by a preponderance of the evidence, the defendant
6 was the shooter. And as the probation office notes, it would
7 be aggravated discharge of a firearm by virtue of the fact that
8 he's shooting a gun in the direction of another individual.

9 THE COURT: Ms. Singer, do you want to respond at all
10 before I rule?

11 MS. SINGER: No, Your Honor, nothing further.

12 THE COURT: I am overruling your objection to the
13 four-level enhancement under 2K2.1(b)(6)(B). I find that the
14 government has established, based on the trial testimony, by a
15 preponderance of the evidence that Mr. Morales used or
16 possessed the firearm in connection with another felony
17 offense; namely, aggravated discharge of a firearm.

18 I would agree with you, Ms. Singer, that they have
19 not proved that he used it with the specific intent to kill
20 somebody, but it was certainly sufficient to establish
21 aggravated discharge of a firearm.

22 And specifically, the evidence showed that
23 Mr. Morales was the shooter in the alley that day. It
24 certainly establishes this by a preponderance of the evidence.
25 We heard testimony from Ms. Coward who testified about the

1 gunshots outside of her window. She saw a person in dark
2 clothing getting into the passenger side of a gray vehicle and
3 driving away towards Simpson Street. Body cam footage from the
4 Evanston Police Department showed Ms. Coward's window and the
5 line of sight that she could have seen what happened from her
6 window.

7 Mr. O'Malley also testified that he saw a man in dark
8 clothing in a sort of track-like pants, which ultimately that
9 description matched close what Mr. Morales was wearing. He saw
10 him pointing a gun and shooting it in the direction of somebody
11 dressed in red and black.

12 Detective Sosa also saw a gray Jeep leave the alley
13 and head west on Simpson Street, which is consistent with what
14 Ms. Coward testified to. He followed the Jeep, caught up with
15 the Jeep after it crashed.

16 Mr. Grampp testified that he lives on the corner
17 where the Jeep crashed, and he observed two men exit that Jeep.
18 And the passenger was wearing dark clothing, and he saw them
19 running away.

20 And the Nest camera footage from Mr. Buchanan's
21 captured both Mr. Morales and Mr. Daniels-Robinson on foot
22 running away, matching the clothing description.

23 And the evidence further showed that the six
24 cartridge casings that were recovered at the scene of the
25 shooter matched the firearm that was recovered from the scene

1 of the Jeep crash, and that firearm had Mr. Morales's
2 fingerprint and DNA on it and did not have Mr. Daniel-
3 Robinson's.

4 For all of those reasons, the evidence shows by a
5 preponderance of the evidence that the four-level enhancement
6 under 2K2.1(b)(6)(B) is appropriate, and the government has met
7 its burden by a preponderance of the evidence.

8 The next enhancement that the defendant has objected
9 to is an enhancement for obstruction of justice. The probation
10 officer is recommending in the PSR a two-level enhancement for
11 this, and you have objected. This is for recklessly creating a
12 substantial risk of death or serious bodily injury to another
13 person in the course of fleeing from a law enforcement officer.

14 And, again, Ms. Singer, I have read your thorough
15 submission, read the submission from prior counsel. But
16 anything you would like to argue, add, reiterate, please go
17 ahead.

18 MS. SINGER: Your Honor, I think our sentencing memo
19 lays out our objection to this enhancement on pages 16, 17, and
20 portions of 18 of our sentencing memorandum.

21 And just to add to what you just read, based on the
22 fact that probation is also -- is requesting this and that we
23 are objecting to this as well as the government's request for
24 this in that the defendant recklessly created a substantial
25 risk of death or serious bodily injury to another person, as

1 Your Honor just stated, Mr. Morales was the passenger in this
2 vehicle, not the driver. There is plenty -- there is case law
3 that we have cited to Your Honor that supports the fact that
4 this enhancement should not apply to him.

5 And based on the filing, we would rest on the oral
6 argument and filing regarding this objection to the two-point
7 enhancement.

8 THE COURT: Mr. Mulaney.

9 MR. MULANEY: Yes, Your Honor. So it's our position
10 that the defendant induced this reckless flight from the police
11 by virtue of the shooting, which was set up by the defendant in
12 the alley with the -- with the get-away driver.

13 So after the shooting, he was obviously not going
14 just along for the ride. He instigated the chase by doing the
15 shooting, jumping in the Jeep. And not surprisingly, it was at
16 a high rate of speed because gunshots were heard, and a police
17 chase ensued.

18 So in addition to inducing the aided/abetted
19 counseled or commanded it, it's a fair inference that during
20 this car chase, which was at a high rate of speed, including
21 through residential neighbors and which included a near miss at
22 one of the intersections, the defendant was counseling or
23 commanding that the escape continue, because he was the
24 shooter. He had a gun still in his possession at that point.

25 We cited it in our brief, but the Seventh Circuit in

1 United States versus Seals explained this enhancement applies
2 to a passenger based on the driver's reckless conduct if the
3 District Court specifically finds the passenger was responsible
4 for or brought about the driver's conduct in some way.

5 And the Seventh Circuit quotes *United States versus*
6 *Byrd*, which is a Sixth Circuit case from 2012. And in that
7 case, the defendant was the initial get-away driver for a bank
8 robbery. He drove away not at a high rate of speed but later
9 on jumped into a co-defendant's car and fled from the police in
10 the passenger seat. And the Sixth Circuit found that his
11 participation in the bank robbery and the facts of the escape
12 in which he jumped in the passenger seat was, quote, "motivated
13 by a desire to escape." Therefore, one could infer that
14 Mr. Byrd, the defendant, encouraged or supported the driver,
15 Abdul-Jalil's reckless driving. And they relied on the fact
16 that Byrd and the others were attempting to successfully rob a
17 bank, which is a very serious crime, which provided them for
18 motives to take desperate and reckless measures to flee and
19 allude capture. And that was -- that was a bank robbery.

20 This is a shooting, and this is -- the case here is
21 even more persuasive because shooting a gun in the middle of
22 the afternoon in broad daylight, it's even more likely that a
23 chase is going to ensue.

24 So I think based on the Seventh Circuit's
25 interpretation of the guideline and its reliance on Byrd and

1 the facts of those case [sic], the guideline was properly
2 applied here.

3 THE COURT: Is there anything you would like to
4 respond?

5 MS. SINGER: Yes, Your Honor.

6 There is no proof of what the government just argued,
7 that this was -- that Mr. Morales induces. There's no
8 statements that they have. They don't have statements from the
9 co -- Mr. Robinson, the driver, who says, you know, Darius made
10 me do this or Darius told me to drive fast or -- you don't have
11 any statements that support what the government is saying.

12 The mere fact that the car was driven at a high rate
13 of speed does not mean that Mr. Morales induced or procured or
14 aided and abetted Mr. Robinson in doing that. There has to be
15 more than just the car drove away fast after what -- now
16 they're saying now this shooting.

17 The government is focusing its argument here as well
18 as -- and I will argue this later -- but so much of this on
19 this shooting, Your Honor, for which is -- it's not what he was
20 convicted of.

21 And while these enhancements, again, are not proof
22 beyond a reasonable doubt, what we're talking about here is a
23 922(g). This enhancement of the two points doesn't apply,
24 because they don't have anything to support that Mr. Morales,
25 you know, forced or told or did anything to Mr. Robinson.

1 Mr. Robinson maybe obstructed justice, but Mr. Morales did not.
2 And we're asking for that not to apply.

3 THE COURT: I'm going to sustain your objection to
4 the obstruction of justice enhancement and not apply the
5 two-level enhancement under 3C1.2 for recklessly creating a
6 substantial risk of death or serious bodily injury to another
7 person in the course of fleeing from a law enforcement officer.

8 The government has not met its burden of establishing
9 this under our case law by a preponderance of the evidence. As
10 you note, the defendant was not the driver of the vehicle.
11 Mr. Morales was not the one driving at the high speeds. There
12 is a large inferential leap there that the evidence here
13 doesn't support that the defendant actually caused or aided and
14 abetted in that conduct.

15 Under *U.S. versus Seals*, there must be some form of
16 direct or active participation in order for this, and the
17 evidence that I listened to and heard and observed at trial
18 does not support that. So I will sustain that objection.

19 Given that, there is an adjusted offense level of 28.
20 The total offense level here is a 28. The criminal history
21 category is a V.

22 Ms. Singer, I understand you have argued that under
23 the history and characteristics element of 3553(a) that the
24 Court should not consider his -- all of the arrests and the
25 criminal history points as being as significant as it might

1 indicate.

2 I did not understand that you were objecting to the
3 level -- the criminal history category of V or the calculation
4 of a criminal history category V. Is that correct?

5 MS. SINGER: That's correct, Your Honor. Under
6 the -- under the guidelines, I do believe that he -- that
7 Mr. Morales is a V for the criminal history. Our argument
8 falls under 3553(a), Judge.

9 THE COURT: Okay. That's how I understood it. I
10 just wanted to make sure.

11 So with an offense level of 28, a criminal history
12 category of V, there is a corresponding guideline range of 130
13 to 162 months in prison.

14 And now I will hear -- again, I have read everything
15 you submitted, but I will hear anything you would like to argue
16 with respect to sentencing, the 3553 factors, anything else.

17 And if you would please -- I'll ask the government
18 this, and I've already read it in your submission. I didn't
19 see any position from the government. But Mr. Morales served
20 51 days in state custody. That looked like it was for this
21 same charge.

22 MR. MULANEY: That's correct, Your Honor. I believe
23 the BOP will credit -- credit him for that time.

24 THE COURT: I don't know that we can count on the BOP
25 crediting him for that time because it was state custody. So I

1 assume you agree he should get credit for that time?

2 MR. MULANEY: My understanding of the statute is that
3 if defendant served time for the same offense, even if it's in
4 state custody, he gets credit under the BOP's rules under the
5 statute cited by the defense and that if he does not, he can --
6 he can challenge it through a habeas petition.

7 THE COURT: Ms. Singer.

8 MS. SINGER: This has been kind of an ongoing debate,
9 Your Honor. My hesitation -- obviously, our position is that
10 he should be getting credit for those 51 days. This was a case
11 that started in state, then the federal government took it.

12 So I don't think there's really a -- well, I don't
13 want to speak for the government, but I don't think there's a
14 dispute of what the sequence of this is. I just don't like
15 speaking for the BOP and what they do, but this has been an
16 ongoing debate about whether or not the BOP gives credit for
17 that or not.

18 And so I'm hesitant to take any firm position on
19 that, because there has been some kind of ongoing discussions
20 with us.

21 THE COURT: So -- and we'll get to this later. I
22 agree he should get credit for those 51 days. And I've had
23 issues in the past with BOP actually giving credit for state
24 time served on the same charge, so we can talk about that
25 later. You can address it, and I'll address it when I impose

1 sentence ultimately. But he should get credit for that, and I
2 want to make sure the sentence imposed reflects that today.

3 Okay. Ms. Singer, go ahead, please, with respect to
4 sentencing, 3553(a) factors, and anything else you would like
5 to address.

6 MS. SINGER: Just briefly, Your Honor. There may be
7 two live witnesses that wanted to speak at his hearing. Could
8 I just step away for one second just to check?

9 THE COURT: Please. Please.

10 MS. SINGER: Thank you.

11 (Discussion off the record.)

12 MS. SINGER: I do have -- I do have two family
13 members that would like to speak, Your Honor, at sentencing.
14 Would you like to hear from them now?

15 THE COURT: Who are they, please?

16 MS. SINGER: Zipporah Morales, Z-i-p-p-o-r-a-h,
17 Morales, M-o-r-a-l-e-s.

18 THE COURT: And what is Ms. Morales's relationship to
19 Mr. Morales?

20 MS. SINGER: His sister, Your Honor.

21 THE COURT: Okay.

22 MS. SINGER: And Alpha, A-1-p-h-a, Waller,
23 W-a-l-l-e-r.

24 THE COURT: What is Ms. Waller's relationship?

25 MS. SINGER: Cousin, Your Honor.

1 THE COURT: Okay. Of course. Who wants to go first?

2 MS. SINGER: Ms. Zipporah Morales.

3 THE COURT: Okay. Ms. Morales, if you would come
4 forward, and whatever the marshals -- wherever you want
5 Mr. Morales to stand or sit. Everybody else can sit if you
6 want.

7 Good afternoon, Ms. Morales.

8 MS. ZIPPORAH MORALES: Good afternoon, Judge.

9 THE COURT: Would you please state your name, ma'am?

10 MS. ZIPPORAH MORALES: Zipporah Morales.

11 THE COURT: I understand you're related to
12 Mr. Morales; is that correct?

13 MS. ZIPPORAH MORALES: Yes. Yes, ma'am.

14 THE COURT: He's your brother?

15 MS. ZIPPORAH MORALES: Yes.

16 THE COURT: Older brother?

17 MS. ZIPPORAH MORALES: My younger brother, but he's
18 my older brother.

19 THE COURT: I understand you'd like to address the
20 Court this afternoon, ma'am?

21 MS. ZIPPORAH MORALES: Yes, ma'am.

22 THE COURT: Please, go ahead.

23 MS. ZIPPORAH MORALES: I just wanted to say, today I
24 want to give you a little history on Darius and us.

25 We come from a family of ten, five girls, five boys,

1 same mother, same father. So as you know, our house was kind
2 of hectic.

3 Darius took on a lot within his life span. When I
4 say a lot, from growing up being a burn victim, he dealt with a
5 lot in and out of the hospitals and everything like that.

6 As Darius got older, Darius took on -- when I say a
7 lot, he was a kid -- even though he was bullied, he was one of
8 those that still gave back, and he did a lot for the community.
9 He did a lot for anybody that he seen was in situations like
10 him with the bullying or anything.

11 I have friends that I know that were in serious
12 situations to where my brother stepped up. He helped them,
13 whether it was financially, giving them a place to stay. He
14 would take the shirt off his back. A person could be out on
15 the streets homeless, not have anything, Darius make sure they
16 eat, give them a place to bathe, to do anything.

17 When it comes to my parents, that's -- when I say
18 Darius -- you would have thought he was older than a lot of us.
19 He took that leap and took the major responsibilities when it
20 came to my dad and my mother's health. Unfortunately, he
21 wasn't able to be out when my mother passed, so that was a big
22 thing, a big burden on our family, because he was one of the
23 main supporters that we had to do a lot of things financially
24 to make sure that both of our parents' situations were handled.

25 As a father figure with a lot of the kids, it's not

1 just Uncle D. They -- a lot of our kids looked up to him as a
2 father figure to them. If their dad wasn't around or anything
3 like that, his kids, well, well mannered. He did everything.
4 Make sure school activities, anything, Darius was there for
5 them. He never missed a beat.

6 And when I say -- my mother called him her teddy
7 bear, because even though he looks so hard core on the outside,
8 he's soft as a bear. He has -- he's just genuine in all
9 aspects, ma'am. And when I tell you -- I don't want to get
10 emotional, but --

11 THE COURT: Take your time.

12 MS. ZIPPORAH MORALES: -- it's just he's definitely a
13 good person. And, you know, I want you to just look at that
14 and hear what I'm saying.

15 And there's nothing scripted or anything. This is
16 who my brother is really. He's definitely a genuine person,
17 and I just hope that he's able to be able to come home and be
18 around the family and give his kids the love and the support
19 that they need, because they're definitely missing their dad.
20 We're definitely missing our brother.

21 THE COURT: So, Ms. Morales, let me ask you a
22 question if I could, please.

23 One of the factors that the Court looks to when
24 sentencing somebody is danger to the community.

25 MS. ZIPPORAH MORALES: Yes, ma'am.

1 THE COURT: And your brother has quite a lengthy
2 criminal history --

3 MS. ZIPPORAH MORALES: Okay.

4 THE COURT: -- which concerns me, because somebody
5 with a lengthy criminal history who has been in jail before and
6 has gotten out and goes back and commits more crimes, there's a
7 suggestion there that person is going to recidivate and be a
8 danger to the community.

9 In terms of structure or what role family may play
10 when he's released -- he's certainly going to serve a prison
11 term --

12 MS. ZIPPORAH MORALES: Yes, ma'am.

13 THE COURT: -- but when he's released, what can you
14 tell the Court to give me some kind of comfort that I'm not
15 going to see him again?

16 MS. ZIPPORAH MORALES: Well, I'm definitely -- I made
17 sure -- me and my niece, my sisters and them as well, I've been
18 building a business that can help to maintain my brother to
19 where when he comes home, he doesn't have to worry about trying
20 to find a job. I have something that's legit, like, going
21 forward. I have a grand opening tomorrow.

22 So this is my main thing, to make sure that my
23 brothers and them are on the right path -- that my brother is
24 on the right path.

25 THE COURT: What type of business?

1 MS. ZIPPORAH MORALES: I have a massage parlor.

2 THE COURT: Okay.

3 MS. ZIPPORAH MORALES: So that's -- this is just one
4 of many that I want to, you know, have.

5 So I'm going to make sure, me as his older sister,
6 that he's going to be on the right path. I'm going to make
7 sure of that, and I promise myself that. And to my mother,
8 that's -- I have to look out for my brother. And that's why
9 I'm trying to build this brand so that there's nothing out
10 here, you know, that can steer him in the wrong path, because
11 he'll have this path to look forward to.

12 THE COURT: Okay. Thank you, Ms. Morales.

13 MS. ZIPPORAH MORALES: Thank you.

14 THE COURT: Anything else?

15 MS. ZIPPORAH MORALES: That's all.

16 THE COURT: Good luck with the opening tomorrow.

17 MS. ZIPPORAH MORALES: Thank you.

18 THE COURT: Ms. Waller is our next witness?

19 MS. SINGER: Ms. Waller.

20 THE COURT: Good afternoon, Ms. Waller.

21 MS. ALPHA MARIE WALLER: Hello, Your Honor.

22 THE COURT: Would you please state your full name,
23 ma'am?

24 MS. ALPHA MARIE WALLER: Alpha Marie Waller.

25 THE COURT: What is your relationship to Mr. Morales?

1 MS. ALPHA MARIE WALLER: I'm his first cousin.

2 THE COURT: And I understand you'd like to address
3 the Court this afternoon?

4 MS. ALPHA MARIE WALLER: Yes. I don't know who all
5 got to read the letter.

6 THE COURT: I have read everything that was submitted
7 to me.

8 MS. ALPHA MARIE WALLER: So I am addressing the
9 courtroom or just you?

10 THE COURT: You could address whoever you would like.
11 I am imposing sentence today, but you can say anything you
12 would like to in court today.

13 MS. ALPHA MARIE WALLER: Okay. So as far as knowing
14 him, I actually met him when he was about three or four years
15 old. And that's because his mother was very protective in how
16 she raised him, and how she raised him is how he actually
17 implements how he raises his children as well and how he takes
18 care of family.

19 He is a family person. I know that everybody that
20 came to the court today as far as family can vouch and say that
21 he has touched their life in some way. He has touched mine.

22 I was a missionary for 15 years in the United States,
23 religious missionary. Okay? And there were things that I
24 would do. I would still talk to him in my missionary work, and
25 he would -- I would say, he always listened. He always

1 listened and acknowledged the things that were right and what
2 was wrong.

3 And very helpful as a young child, and as I wrote in
4 the letter, that's a -- from what I understand what his mother
5 and I discussed and what she has told me is this is why he has
6 the scars that he has today is because he was trying to be
7 helpful, always a helpful person.

8 As far as the children are concerned, I could be
9 repeating myself, but very involved even with -- my daughter is
10 his cousin, but she calls him Uncle Darius.

11 So I'm just saying he's very close. He's a person to
12 talk to. Everybody can talk to him easily. Yeah, so we love
13 him.

14 THE COURT: I can tell. Thank you. Is there
15 anything else you would like to say?

16 MS. ALPHA MARIE WALLER: That we just want him to
17 come home.

18 THE COURT: Okay. Thank you, Ms. Waller.

19 MS. ALPHA MARIE WALLER: Okay.

20 THE COURT: So, Ms. Singer, I will hear anything you
21 have to say --

22 MS. SINGER: Thank you, Your Honor.

23 THE COURT: -- with respect to sentencing, 3553(a) or
24 anything else.

25 MS. SINGER: Thank you, Your Honor.

1 I would ask, obviously, that Your Honor consider our
2 written submission as well as the exhibits that were attached
3 in letters as well as certificates that Mr. Morales provided.

4 There was medical records that we also provided to
5 the Court -- I believe we filed those under seal only because
6 they were medical records --

7 THE COURT: I understand.

8 MS. SINGER: -- which support our argument, our
9 position as well as lay out the history of Darius's serious and
10 really quite unfortunate kind of -- not kind of -- incident
11 that happened when he was young.

12 And Darius said this to probation and has said it to
13 me several times, which is, as a child it's not something any
14 child asks for when something that tragic happens. It's not
15 something that any child should have to go through.

16 The fire that occurred in Darius's home, well, he was
17 young, and it has affected his entire life, and it still
18 affects him. The way he is treated, the way he is seen by
19 other people in the community, by other people that just see
20 him, the first thing they see are Darius's scars, and it is
21 quite often that he is judged strictly based on that.

22 The medical records support that this was not just a
23 one-time hospital visit. Mr. Morales was in and out of the
24 hospital for various skin grafts, some serious surgeries. And
25 it was really important to Darius that I do what I can to get

1 those medical records for the Court, so the Court could take
2 that into consideration and see that. And it is nothing that
3 any person, let alone any child, should have to go through.

4 As you heard from his sister, he is one of several
5 children. His mother passed away while he was in custody. And
6 not only was that hard on the family, which his sister alluded
7 to, it was extremely difficult for Darius. Darius did not get
8 to say good-bye. Darius did not get to see her.

9 And, yes, as the government often likes to point out,
10 that it is because he is in custody, and if he didn't make the
11 choices he did that he would have been out for his mother's
12 funeral. However, as Your Honor -- or his mother's passing.

13 However, as Your Honor is aware -- and I'm going to
14 address this, because the government kind of highlighted this
15 in their response to the sentencing memorandum that I filed --
16 Darius does maintain his innocence, and he does maintain that
17 the jury, while respectful of their decision and respectful of
18 the Court, he does maintain his innocence. And he has the
19 right to do that. And disagreeing with the government and
20 disagreeing is a cornerstone of our -- of this system, of
21 having the right to go to trial and having the right to have a
22 jury.

23 And, of course, he's already being -- it's already
24 being accounted for that he did that because he does not get
25 three points for any sort of acceptance of responsibility. But

1 he has the right to maintain that, and that does not mean that
2 he can't, as the government argues, be deterred.

3 As Your Honor is aware, there are many people that go
4 through the criminal justice system that exercise their right
5 to trial and exercise their right to challenge the government,
6 and years later they're actually found to be correct and that
7 there was something that happened and proves their innocence.

8 And I only raise that, Your Honor, because the
9 government in their submission in response to my filing argued
10 that because -- in essence, that because Darius still maintains
11 his innocence that he should somehow be -- that that 10 year,
12 the maximum penalty for this charge, is the appropriate
13 sentence.

14 There are many factors, as Your Honor knows, that you
15 have to take into consideration when sentencing Darius. It is
16 not just deterrence. It is not whether or not he takes
17 responsibility, because that's already been factored in.

18 Darius's history and characteristics, his family that
19 you've heard from, his children who adore him, who he talks to
20 and tries to support, his daughter -- his young daughter who
21 has struggled with him being in custody, and these are all
22 factors that the Court has to consider.

23 Yes, Darius feels -- and we -- and we lay this out in
24 our sentencing memorandum for the Court -- that he has in many
25 ways -- not only has he had a hard life but been targeted for

1 various reasons by members of police.

2 And the government took issue, I guess, with us -- us
3 raising this, but it is something for Your Honor to see, that
4 there are many traffic stops, traffic stops that end up with no
5 charges or that end up in an arrest that are then eventually
6 dismissed in state court or charges that are brought and then
7 dismissed.

8 These are -- this is part of Darius's life. This is
9 part of who and how Darius sees that things are not always as
10 they are. But that does not mean that Darius does not take
11 responsibility for things that he has done, and Darius will
12 address some of that when he -- which he wants to and will
13 address the Court.

14 Under the -- under 3553(a), Judge, we have laid out
15 many reasons for Your Honor in our written submission,
16 hearing -- the letters, hearing from family today, that -- and
17 sometimes, Judge, there -- you know, there's -- we go through
18 sentencing where there's no family that can come.

19 And Darius does have support. And Your Honor asked a
20 really important question to his sister, which was: What is
21 the structure? How can I kind of know, as much as I can, as
22 much as anyone can know, that someone is not going to come back
23 in front of me?

24 But looking just at Darius's past or looking just at
25 what the PSR lays out regarding his criminal history or the

1 stuff doesn't indicate to the Court enough.

2 Darius is not a young man anymore. Darius is older.
3 He has now been in custody for many years fighting this case
4 through difficult times, watching his children have even more
5 difficulty.

6 So to just look at someone's past is not enough. I
7 understand the Court is going to consider criminal history. I
8 understand that the Court has to, but the Court also needs to
9 consider where Darius is now.

10 His sister has established that, you know, Darius can
11 have a job with her upon his release. Darius has his own hopes
12 and dreams, too. It's wonderful that -- and I -- and we all
13 hope that Darius has this kind of system or structure set up
14 when he is released.

15 But Darius has his own hopes and dreams which do not
16 involve coming back to this criminal justice system. And as
17 Your Honor is aware, no one can predict what's going to happen
18 in the future, and no one -- there are no for-sure guarantees.

19 Darius standing here right now is not the same person
20 as he was when he went in and not the same person he was in
21 that background that the PSR lays out.

22 And based on all that, Your Honor, we are asking for
23 a reasonable sentence. The maximum sentence in this case
24 doesn't -- it is far greater than is necessary. And just
25 because he went to trial doesn't mean he should get the maximum

1 sentence, and we ask that you consider everything that we've
2 said.

3 THE COURT: Thank you, Ms. Singer.

4 Mr. Mulaney, on behalf of the government.

5 MR. MULANEY: Yes, Your Honor. So under the new
6 calculation of 130 to 162 months' imprisonment under the
7 guidelines, which is reduced to 120 based on the statutory max,
8 defendant still is well above the statutory maximum under his
9 sentencing guidelines. And that should be taken into
10 consideration. 120 months is the guideline sentence, but the
11 guidelines calculations well overshoots that because of the
12 significant aggravation in this case.

13 And as Your Honor has already found, defendant was
14 shooting a firearm in the direction of another person. And
15 even if we give him the benefit of the doubt and say that he
16 just intended to scare this person and was pointing it in his
17 direction but intending to miss, that is still a very serious
18 crime in which there is an intended victim.

19 And defendant's history and characteristics don't
20 give us adequate assurance that this was a one-time incident
21 and that we don't have to be worried about it again in terms of
22 protecting the public.

23 He's been in and out of the criminal justice system
24 over the past 15 to 20 years. He's 32 years old now, I
25 believe, and he's been involved in criminal activity since he

1 was teenager, and it's sad that he was first getting arrested
2 at the age of 12. And it's extremely tragic the severe burns
3 he suffered as a child and not only all the treatment but the
4 effect on his appearance and how that impacts his life. We
5 have no dispute that that's tragic and that is mitigating.

6 But in light of all this history, it has to be taken
7 under consideration the interventions of the juvenile court
8 system and adult programs like boot camp didn't lead him to
9 correct his behavior.

10 So it would be one thing if defendant's tragic
11 background led him to make a mistake, and we now know that he's
12 going to -- he learned his lesson, and he wants to correct his
13 behavior. I don't think we can be assured of that in this
14 situation at all.

15 It's also not adequate for general deterrence to give
16 him a below-guidelines sentence. That shooting in the alley
17 was brazen. It was in broad daylight.

18 We do not know what the defendant's beef was with
19 the -- with the intended victim. And I say "victim" again,
20 because being shot at is victimizing, whether he meant to miss
21 or meant to hit him. Defendant seemed to -- intended to send a
22 message to that intended victim and others.

23 And the sentence should also send a message that
24 defendant is not going to get a break on his conduct despite
25 the significant mitigation and despite his loving family, which

1 you've heard from.

2 So the government recommends a sentence of 120
3 months, which is the guideline sentence in this case.

4 THE COURT: Thank you, Mr. Mulaney.

5 Ms. Singer, do you want to respond to anything before
6 I hear from Mr. Morales?

7 MS. SINGER: No, Your Honor.

8 THE COURT: Is there anything you would like to say
9 to the Court this afternoon, sir?

10 THE DEFENDANT: Your Honor, I want to say -- it's a
11 lot of things that I want to say.

12 The first thing --

13 THE COURT: Take your time.

14 THE DEFENDANT: The first thing that I'm going to say
15 is, Your Honor, I'm not perfect. I come from a struggle. I
16 never had nothing. Growing up, my mom struggled. My parents
17 struggled. My family struggled. I (indecipherable). I was
18 the oldest kid. I had to piss and poop in the bucket because
19 my house was shut down because of my older brother. He didn't
20 know what I went through. Don't nobody know what I went
21 through.

22 I didn't want this life. I didn't want a lot of
23 stuff that came my way. It was unavoidable situations that
24 came on. I'm not perfect. I'm not perfect. I'm not saying.

25 But the thing about me is when we sit in this court

1 and I -- in the back, because I know that I've made -- I've
2 been around (indecipherable), but, Your Honor, growing up --

3 MS. SINGER: Don't yell.

4 THE DEFENDANT: -- growing up, all I want was genuine
5 love.

6 When we -- it's like when you in a relationship when
7 you want something, you look for thing, you look for people,
8 you look for what you never know. I'm always the one giving.
9 I never got. I never had nobody give me nothing. My family
10 telling you I never had nobody.

11 I sat in this cell for two-and-a-half years. I've
12 been looking at my kids, the difficult -- everything, because I
13 just giving, giving, giving, running, running, running. All my
14 life I've been running, running, running, running, running,
15 running, running, running. I've been running from the -- I've
16 been running trying to get away from all the pain, all the
17 stuff that's hurting inside of me. I'm hurting.

18 You sit there and tell me -- you saying something
19 about -- well, what about the stuff that's been done to me,
20 too? What about the stuff with the police? There's a lot of
21 things that been done that just -- I like trying -- they're
22 just trying to say, like, okay, I been arrested by the police,
23 but it's not because of me that the police knew about certain
24 thing. It's stuff that happen that I never bring up. It's
25 recordings. It's things that's -- that's out there about these

1 officers that are happening and, like, y'all trying to hide,
2 like just not trying to fail and see what --

3 MS. SINGER: Slow down. Slow down.

4 THE DEFENDANT: -- what the -- what's the big going
5 on.

6 MS. SINGER: Slow down. Slow down.

7 THE DEFENDANT: And because I just trying not to run,
8 because I -- man, listen to me. I -- man, Your Honor, it's --

9 MS. SINGER: Hold on. Hold on. Hold on. Slow down,
10 because the court reporter -- slow down. Take your time.

11 Okay? She's not rushing you. Just slow down, Darius. Okay?

12 THE DEFENDANT: Your Honor, I standing in front of
13 you, and I tell you it's from the bottom of my heart, I'm not
14 perfect. I made mistakes in my life. I agree I've been around
15 some people that I shouldn't have been around, but it wasn't,
16 like, my choice of being around them then, like, oh, I'm going
17 to be around these people.

18 This is the only people I knew. I didn't have -- and
19 I don't have -- I don't have -- I only had my family. These
20 are the only people I know. This is what -- this is -- this is
21 (indiscernible) -- that's not like trying to be all -- I'm
22 trying to be -- it's like if I'm arrest and I'm guilty by
23 association or something like -- like, oh, oh, oh, he this.
24 He's around here (indiscernible).

25 But, like, no, this is not what it is. It's --

1 it's -- it's -- it's not what's being put out here and saying,
2 like, oh, Darius is this (indiscernible) person. No, I'm not.

3 I'm a loving person. I always tried to be. Yes,
4 I -- yes, that -- I didn't -- I didn't want -- I didn't
5 chose -- like, I didn't choose to get brought up. That's not a
6 life that I want. Who want to go through this? I didn't want
7 to go through this. I don't want -- I don't want to see my
8 kid -- my daughter and talk about killing herself three times.

9 I'm terribly sorry. Like, I don't know what I be
10 like -- you be saying coming in -- be coming back to jail.
11 Like my kids alone make me never come back to jail. Like the
12 stuff that I deal like -- my sister here right now, but I got
13 my other sister with my kids. It's, like, what my kids been
14 forced to be with her and what's been going on with them, like
15 it make me, like, some day, like, I don't want to wake up
16 because it's so stressful and what I got to see them go
17 through.

18 I don't want my -- I was 20 years old. I was -- I
19 was -- I was -- I was running. I was somewhere I didn't know.

20 THE COURT: Mr. Morales, can I ask you just to slow
21 down a tiny bit --

22 THE DEFENDANT: I'm sorry. I'm sorry, Your Honor.
23 I'm sorry.

24 THE COURT: We've got -- I'll stay here as long as
25 you want. We've got a lot of time but --

1 THE DEFENDANT: I apologize. I apologize --

2 THE COURT: Wait, wait, wait. Let me just -- Nancy
3 is taking down everything you say, and she's an awesome court
4 reporter, but you're talking so fast --

5 THE DEFENDANT: I apologize.

6 THE COURT: -- it's really hard for her to get
7 everything.

8 I will listen to you, whatever you have to say. But
9 if you're going so fast, you're making her job three times as
10 hard. And I want to make sure we have a record of everything
11 that you have said, and you want to make sure we have a record
12 of everything you have said.

13 So if you could just slow down a little bit. I'll
14 listen to anything you want to say this afternoon. We have
15 lots of time.

16 THE DEFENDANT: Your Honor --

17 THE COURT: Just slow down a little bit, please.

18 THE WITNESS: I apologize. I apologize. But it's
19 just --

20 THE COURT: I know you have a lot to say, but we've
21 got plenty of time.

22 THE DEFENDANT: I'm just -- because when I see it and
23 I see it -- like I say, it's all speculation. People look at
24 you, and they judge you and say, oh, you're just this type.
25 But, no, I'm not.

1 It's just getting to what my lawyer said about
2 traffic stops. It's a lot of things that come -- my family was
3 known before I was even -- before I was even ever, ever caught
4 a arrest.

5 It's not -- this is not something that -- this was --
6 this is, like, things that was going on with my family, when my
7 house got boarded up, when I had to forced to be live with my
8 father at my aunt house, and she got us locked down in the
9 basement, you can't -- how could you think (indecipherable).
10 For years I'm going through so much stuff for years on out and
11 trying to find a way out, to make sure my mom don't end up in
12 the situation, to make sure my mom not getting beat like -- you
13 don't -- you don't -- you don't know, like, I deal with so much
14 stuff for so many years I been -- yes, I ended up being around
15 Twan, yes, but because who was there to help me? Who was ever
16 there to help me? Who was there to -- some of these people
17 that I -- that didn't look past my scars and looked in and
18 judged me and then cut jokes against me, didn't -- you know how
19 hurtful that is inside? Do you know how hurtful it is inside?

20 I went through a lot of pain through my life. It's
21 hurtful, and it puts me in -- being in places that it's not
22 that I -- that I want to or -- and I realize that, hey, you
23 know, I only -- and then I sit down, and I've been locked up.
24 And I really know I did it before because I just always been
25 going. When I'm out I got to look back at my mom. She did

1 this, this happen, this going on, this going on, all been
2 dealing with. Everybody has a problem. I've never been able
3 even to fix my own problem all my life.

4 Now my kids and stuff without me, now they is, dad,
5 when you coming home? Dad, I just want to die. My mom and
6 granny dead. My mom is dead.

7 You know how hurt that inside, as a father that it
8 hurt me inside to got to go through that and think in my head,
9 like, you know, tomorrow -- what if tomorrow my mom died? What
10 if tomorrow -- one day they call and my daughter, something
11 happened with my kids, something happened to them?

12 I don't want this for my life. You saying -- you
13 saying it take -- no, it don't -- it don't take long for them,
14 because when you -- sometimes it take me -- you sit down, and
15 you really see the picture. I never got the time to really
16 seriously look at nothing, because I always been running. I
17 been running. I been running from all the pain inside. This
18 is pain. This is pain. This is not -- this is not a good
19 feeling. It's not a food feeling.

20 You don't know the stuff that I been through. And
21 yet I sit here, and I watch how the -- they trying to
22 (indecipherable), but it's a lot of things that I don't -- that
23 I don't put -- they don't put. Now just with me, with officers
24 what they done done, the stuff they forced me for years. Like,
25 come on, man, we not -- ain't nobody in this world perfect.

1 You try to -- while I'm getting bashed, like, I'm
2 just -- like I'm acting like I'm just somebody. Like I'm this
3 cruel person. I'm somebody bad or I'm somebody -- no, I'm not.
4 I'm a good, loving-hearted person. I'm not that type of
5 person, Your Honor. I'm not that type of person.

6 I agree with you. I agree that I been around -- I
7 agree that I been around the wrong places at the wrong time at
8 times maybe in my lifetime. I'm not this (indecipherable). I
9 agree that maybe -- maybe I made bad decisions that you don't
10 (indecipherable) being around or whatever in my life. I'm not.
11 I'm not.

12 I'm telling you -- I'm telling you like -- but, like,
13 what you think you'll lock me away for 10 years, lock me away
14 from my kids going to do? Like (indecipherable) you know, the
15 thing -- I've been in jail. I was trying to stay away from
16 (indecipherable) and the stuff you got to deal with inside of
17 here and -- and -- and -- and the thing you forced to do when
18 you got to go to the jails and what's happening. Like, y'all
19 from the outside looking -- looking inside.

20 This still -- this still a B0 people, this tear you
21 down even more (indecipherable). How much you want to tear me
22 down? How much do you really want to tear me down? I'm
23 already tore down. I'm not going to lie. I'm tore down. I
24 been going through this -- I've been going through this for a
25 long time. I'm tore -- I'm tired. I'm tired of fighting. I'm

1 tired of the system. I'm tired of everything. I don't know
2 what else you want -- I throw my hands up. I'm tired. I don't
3 want to fight no more. I don't want to -- I don't want to do
4 nothing wrong no more. I don't -- I don't want get into
5 nothing. I don't want to nothing -- I want to live and be with
6 my kids and take care of my kids. I want to get my kids and
7 show them the right -- that I was trying to show them and do
8 the right thing.

9 I'm tired. I'm hurt. They hurt. My son, he
10 autistic. He can't even talk. You know how bad it hurt me
11 right here to look at him, and he can't tell you he five years
12 old. His mom, she doesn't even take care of him. She putting
13 him on somebody else. That hurt me inside (indecipherable).
14 That hurt me inside. I never did (indecipherable) make sure
15 everything, everything emotional -- I do everything for my
16 kids. They don't got nothing.

17 My sister here, yeah, she does try to help. Okay.
18 But my other sisters, they don't. Don't nobody help me. They
19 don't. I see them going down the same path if something were
20 to happening to them. I'm pleading to you. I'm not here
21 because -- I'm just here trying to get off for less
22 (indecipherable), get on and tell you (indecipherable). This
23 is more than I just (indecipherable). This is
24 (indecipherable) --

25 THE COURT: Mr. Morales, Mr. Morales, can you just

1 slow down a little bit, sir?

2 THE DEFENDANT: Your Honor, this is heading my kids
3 more problems and get (indecipherable), and I'm telling you
4 honest to God truth.

5 My brothers is in out and of jail all my life. They
6 been in out (indecipherable) jail. (Indecipherable) to my
7 brothers being in and out of jail. My father, he was gone
8 living his life. I watched him whoop my mom. I watched him do
9 all type of crazy stuff. Me and him fell out at an early age.
10 I didn't have no father, because my father was in and out of my
11 life.

12 Yeah, at times he showed, but once we kind of broke
13 the bond and he whooped me the way he whooped me, the time he
14 whooped me like -- we never really had a relationship for many
15 years.

16 Me and my kids, we got a strong bond and
17 relationship. I try to make sure that my kids never suffered
18 the way that me -- that I suffered growing up as a kid.

19 My kids is now suffering. They got to -- I got to
20 call, and they got to go in rooms and whisper to tell -- I got
21 to tell it like it is because this is what's going on. This is
22 the hurt.

23 THE COURT: Just slow down a little bit, please. I
24 told you, we'll take -- I have got all afternoon.

25 THE DEFENDANT: Your Honor, I'm telling you, I'm not

1 no bad person. I swear to you I don't care -- if you want to
2 put me in a program and you wanted to help -- I'm telling you
3 my -- I'm asking for -- I'm telling you, I'm not that type of
4 person.

5 It's -- it's -- it's -- it's -- I'm never --
6 any judge in this state know if I've been wrong, I always said
7 it. That's why they dismiss case. If I'm wrong about
8 something or something, I'm -- I made mistakes in my life. I'm
9 not perfect. I've been misguided. I've been -- I've been
10 let -- when you -- when you -- when you -- when you running,
11 running, running so long, sometimes you run into -- you run
12 into a brick wall, so you not even conscious of what's going on
13 no more because you just -- you just really trying to get rid
14 of all of the problems.

15 I've been running with problems all my life. I've
16 been running with problems. I've been running with problems.
17 I'm tired. I'm tired.

18 What you -- if they want to do this, they kill me,
19 whatever. I'm tired because it's not gonna -- it's not -- me
20 doing any time, taking away from my kids and letting my kids
21 suffer the way they suffer or let them look the way -- it's not
22 going to do that. The only thing that's going to do is to kill
23 me. I'm tired. I don't know what else to (indecipherable). I
24 plead and tell you, I swear my hand to Jesus God, I'm tired.

25 I lost my mom in here. The closest person -- there

1 was only me and my -- it was never -- I've always been the
2 older, the bigger brother, the oldest sibling through
3 everything that's going on. I never had a bigger brother.

4 One of my brother's smoking crack. My other
5 brother's in jail living. I never had nobody. This is what I
6 was faced with. I never had nobody.

7 And my -- (indecipherable) my dad, he didn't give me
8 that type of -- he didn't give me that type of -- he didn't
9 give that. He doesn't treated me that way, but I still loved
10 him. I still loved him, but I never had that.

11 I give my kids what I never had. I give them what I
12 never had. I got my son, he's suffering right there. He's
13 suffering. He's suffering. His mom -- through my fault, my
14 other kids (indecipherable) suffering. You know what I'm
15 saying? I'm telling you, they suffering. They
16 (indecipherable) and my daughter, they suffering. My kids is
17 suffering. They suffering without me. You know what I'm
18 saying?

19 I am whatever (indecipherable) personal. You got to
20 listen to me. I'll tell you to do. It's the government,
21 everybody, all you all, me and my brother -- me and my brother
22 nothing. We gonna set this straight today.

23 I don't even care. Right now I love my family
24 because that's how we was raised. But me and my family, we
25 don't have -- me and my sister and the tie -- me and my

1 brother, we don't have those type of ties, so that need to
2 stop. You know what I'm saying? Because we know what's going
3 on. You know what's going on. I know what's going on. And it
4 got to stop.

5 You don't know the pain. You don't know what I've
6 been done through with my family. You don't know the stuff
7 that's really been going on or what happened just because I
8 don't say nothing. But I'm saying it right now. It got --
9 it's -- it's -- I'm not -- I'm not -- I'm not -- my life is on
10 a whole nother lane right now. I'm on a whole nother -- I'm in
11 a whole nother atmosphere. My focus is in -- with my kids and
12 my life and literally getting on with them. That's the only
13 thing that matters.

14 Going on the -- doing onto each other, the best I've
15 done so much for my community through my years. I've done so
16 much for foundation. I've done so much for the kids, with
17 every kids, because what I've been through, the pain that I've
18 been through.

19 I'm telling you, I'm in pain. I'm telling you the
20 truth. It's what I've been through. That's why I do so much.

21 I don't want it. Your Honor, I'm just asking you --
22 I'm just asking you, please. I'm just asking you.

23 I'm -- I'm -- I'm -- I'm a human being, Your Honor.
24 I made mistakes in my life. I'm sorry. You know what I'm
25 saying? But that's not my life. That's not my -- that's my

1 kids' life. It's more like my daughters and my son, they're
2 teenagers. They getting older -- they getting older now.

3 You know, this is -- this is beyond everything. This
4 is -- this is what hurt. They getting -- they -- they -- they
5 living -- they living in terrible situations right now. Like
6 they -- honest to God truth, as much as my sister help so much,
7 my other sister, I assign her temporary custody because I was
8 in here but not figuring the stuff that she was doing, so much
9 damage that she was doing because her kids was there and were,
10 but it's a lot of damage to my kids. And she don't even let
11 them now -- right now allow them to bring my kids -- to bring
12 them to court. She didn't allow them to bring them to court to
13 see me. I haven't seen my kids in two -- because she's so --
14 because how -- how -- how (indecipherable) she is, the fact
15 that I don't call because it's too much tension they keep on.

16 I'm just asking -- Your Honor, I'm just telling you
17 like -- I'm -- I'm -- I'm telling you from a -- from -- from --
18 from a parent, from a man, from a child that been through so
19 much that I'm tired. I'm really tired. I'm tired. I want to
20 do what I want to -- my kids, I want to take care of my kids.
21 I want to get (indecipherable).

22 My son, to be -- to be living the way he living, I
23 don't want them to be living the way -- I don't want them to
24 end up in the street. I don't want them to end up dead, so I
25 don't want them to end up with no gun. I don't want them end

1 up doing none of that. I don't want that.

2 Like, I'm being honest and tell you -- I'm telling
3 you like this (indecipherable) -- you got to -- I've been in
4 here sick. I've been swelling up my legs. I'm been swelling
5 up in here. I can't walk.

6 So I'm dealing with the pressure in my mind. I'm
7 dealing with the stuff with my kids. I'm dealing with all
8 this. Who would want to ever feel and go through the type of
9 situation again where I want to hear you sitting there and you
10 going through what you going through, everything just has been
11 through your mind? It's flushing through your head, and then
12 you got to hear and talk about your child, your only daughter,
13 talking about she want to kill herself, she want to take her
14 life. Like, that's not a thought that a kid at 12 years old
15 should be feeling -- 13 years old should be feeling. They
16 shouldn't be feeling that way.

17 They should be feeling love. They should be feeling
18 genuine love and care and support as a kid. That's not there.
19 It's not there. They're not feeling that. They're not getting
20 that.

21 They sitting here and thinking about, like, if
22 tomorrow, what's gonna be next? What's they gonna have to do
23 to get to where they gonna have to get to or do what they got
24 to do? I don't want them thinking that type of way. I don't
25 want my sons thinking that way. My sons is boys. I don't want

1 them thinking like, well, if this happen or I got to take care
2 of myself or I got to do something wrong maybe into the street
3 or end up being around -- these kids is into -- involved with
4 music and everything they hear, basically think what's in the
5 culture right now, (indecipherable) that's cool. And that can
6 lead to problems that, you know, can never come
7 (indecipherable) to these same type of problems. And I don't
8 want that.

9 I'm telling you, my right hand to Jesus Christ, I
10 don't want that. I'm not -- I'm not the person -- the person
11 that I came here two-and-a-half years ago, I'm not that person.
12 My right hand to Jesus, I'm not that person.

13 Every day I get up 6:00 in the morning, and I go to
14 work just so I don't be in no type of mischief, no type of
15 nothing. I go -- every single day I go to work. The people
16 there, they love me inside the jail. They know I'm very
17 helpful to people all the time.

18 Like, Your Honor, I'm not that -- I just -- I'm -- I
19 don't know how much to plead. I'm trying to do right and take
20 care of my kids and get back and do the right thing. I'm not
21 that type of person.

22 I lost a lot in these two-and-a-half years. I've --
23 I've sat down with all the struggles and the pains and
24 everything else that I went through myself and on top of what
25 they going through, and I'm telling you, I'm not that person.

1 I'm not. I'm honestly telling you, I'm not that person, Your
2 Honor, and I'm asking you, please.

3 THE COURT: Mr. Morales, what's your plan when you're
4 released?

5 THE DEFENDANT: My plan is -- obviously is to get
6 involved with the youth, because I'm seeing all the stuff
7 that's going on with these kids and these carjackings and stuff
8 like that. And it's like -- and even if you call to the jail,
9 you ask them, I send emails to them awhile back to try to start
10 programs while I was in there. But, you know, they didn't do
11 it because for the youth that's coming in, 18, 19, that been
12 indicted with carjackings and stuff like that, because I'm
13 looking. And they're really robbing you. Like I'm seeing the
14 kids, like, 12, 13 years old, and they was in there.

15 And I'm, like, man, you know, like, man, this is --
16 I'm just -- that's why it really even hurt me even more. Like,
17 this is my son maybe. What if he go to -- supposed to be at
18 basketball or do something, and one day he with one of these
19 kids or he with one of them -- and this happen to him, and they
20 go on a joy ride or something happen?

21 And, you know, I don't want that to happen. I want
22 to -- I want to get back to -- I want to, you know, be on
23 something else for -- for -- for my community, for the kids,
24 you know, so they don't go through this. Show them my life and
25 what I went through, the pain that I had to suffer that they

1 don't got to suffer and go through, that somebody love them and
2 give them, you know, some of the stuff that I never had.

3 You know, I'm -- I'm telling Your Honor -- my right
4 hand to Jesus Christ, I'm telling you, you give me this
5 opportunity, I'm going to show Your Honor -- I promise you I'm
6 going to show you the type of person that I really am. And I'm
7 going to show you what I'm going to do for the community, Your
8 Honor. I'm just -- I'm asking you, please.

9 THE COURT: Thank you, Mr. Morales.

10 Is there anything else you would like to say, sir?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Thank you.

13 MS. SINGER: Oh, the pictures?

14 THE DEFENDANT: Right there.

15 MS. SINGER: Your Honor, there was -- there was one
16 other thing. Mr. Morales had a few pictures of the family that
17 he was hoping that I could just pass --

18 THE COURT: Sure. Just hand them up to Claire,
19 please.

20 MS. SINGER: Sure. Thanks, Claire. Sorry.

21 THE COURT: Thank you.

22 MS. SINGER: Thank you, Your Honor.

23 THE COURT: Mr. Mulaney, you saw these? Did you see
24 these?

25 MR. MULANEY: Yes, Your Honor.

1 THE COURT: Thank you. I'll hand them --

2 MS. SINGER: Thank you.

3 THE COURT: Claire, would you --

4 THE CLERK: Sorry.

5 THE COURT: Before we turn to the 3553(a) factors, I
6 would like to turn to the conditions of supervised release,
7 please.

8 You have objected to two specific conditions,
9 Ms. Singer?

10 MS. SINGER: Yes, Your Honor, that's accurate.

11 THE COURT: I have to say I'm a little surprised you
12 have objected to No. 9, participating in a mental health
13 treatment program at the direction of the probation officer.

14 MS. SINGER: That's --

15 THE COURT: Are you still standing on that objection?

16 MS. SINGER: No. Your Honor, Mr. Morales would
17 welcome any assistance that he could get in terms of that. I
18 just was asking if there could be -- we just want it to be,
19 like, kind of narrowly tailored in terms of what he needs and
20 the assistance that he would need.

21 Mr. Morales is open to any assistance, though, that
22 the Court would be willing to give him.

23 THE COURT: So this condition is, he shall
24 participate at the direction of a probation officer.

25 So the probation officer will make an assessment if

1 he should get any kind of mental health treatment, and then
2 it's up to the mental health provider to determine what that
3 might be.

4 I don't think anybody in the courtroom is in a
5 position to say what that treatment program might look like
6 unless you have --

7 MS. SINGER: No, no.

8 THE COURT: -- a specialty that I don't know about.
9 And you may. But the mental health treatment provider is in
10 the best position to determine what that treatment is. And
11 based on everything in the record and what I've seen, I think
12 Mr. Morales could benefit from that.

13 MS. SINGER: Of course, Your Honor.

14 THE COURT: And you've made some other arguments
15 that -- with respect to mitigation factors that seem a little
16 bit inconsistent with that, so --

17 MS. SINGER: Judge, we can -- it was as a -- it was
18 just to make sure that it was narrowly tailored enough for him.
19 We can -- we can withdraw that.

20 As I mentioned, you know, he's open to any treatment
21 as long as -- and we just wanted to make sure that it was
22 appropriate for him. I understand the Court's position, and I
23 agree that the mental health provider is actually in the better
24 position to do that, so I can withdraw that.

25 THE COURT: Okay. So I'll note that objection --

1 MS. SINGER: Thank you.

2 THE COURT: -- to No. 9 is withdrawn.

3 And the condition will be as it's proposed. But,
4 again, the probation officer is the one who will decide should
5 he participate in such a program, but it's the mental health
6 treatment provider who determines what that program is.

7 MS. SINGER: Thank you.

8 THE COURT: And that's the person who will be in the
9 best situation to make that determination.

10 MS. SINGER: Yes, Your Honor.

11 THE COURT: And your other objection was to condition
12 No. 23 --

13 MS. SINGER: Yes, Your Honor.

14 THE COURT: -- the one that you shall submit your
15 person, property, house, residence, vehicle, papers, et cetera,
16 to a search conducted by probation officers.

17 MS. SINGER: I am still objecting to that, Your
18 Honor.

19 This condition No. 23 I have seen now several -- it
20 seems newer that the probation department seems to be asking
21 for this on many -- in many situations now. The search
22 indicates in the bracketed portion, computers, other electronic
23 communications, data storage devices, or media.

24 And there is another condition of supervised release
25 that allows probation to, you know, seize things if it sees

1 someone -- something in somebody's home or residence or work.

2 This particular condition -- discretionary condition
3 No. 23 seems to really not have any nexus, especially the
4 computers or electronic communications or data storage devices.

5 So I would either ask that that not apply or that be
6 limited.

7 THE COURT: Mr. Mulaney, this seems incredibly broad.
8 This is a newer condition. I have not --

9 MR. MULANEY: Yes, Your Honor.

10 THE COURT: -- seen this one coming up. I have --

11 MR. MULANEY: I believe it has been recently -- yeah,
12 the wording is more recent to the form.

13 Our position is that in this case it is appropriate.
14 It does apply a reasonable suspicion standard, and it says that
15 the search must be conducted in a reasonable time and in a
16 reasonable manner.

17 THE COURT: What possible relevance could searching
18 his computer have? This is a possession charge.

19 MS. KIRIKLAKIS: Your Honor --

20 THE COURT: There does have to be a nexus. I don't
21 see a possible relevance.

22 Yes?

23 MS. KIRIKLAKIS: Your Honor, we often recommend it
24 now in firearms cases. Mr. Morales does have a prior firearms
25 conviction. And people do put pictures on social media, so

1 that's one thing that we think about.

2 The Court can always strike the electronic media,
3 computers, but there is the concern with the prior conviction
4 for a firearms offense. And there is a procedure by which we
5 follow to do searches. It's not just an officer deciding, hey,
6 I'm going to do a search. There is a process.

7 THE COURT: Ms. Singer, what exactly was it that you
8 were recommending striking? Electronic communications or data
9 storage or -- what was your proposal?

10 MS. SINGER: I would propose the -- one moment,
11 Judge. Let me pull up the exact language from the PSR.

12 I mean, it's the bracketed portion, Your Honor,
13 that --

14 THE COURT: It's paragraph 23.

15 MS. SINGER: Yeah, that --

16 THE COURT: Computers, electronics.

17 MS. SINGER: So I would propose the bracketed, which
18 is computers, other electronic communications, data storage
19 devices, or media.

20 The papers -- I'm not really sure how this particular
21 paragraph 23 is drafted. I don't know if papers is separate
22 from that or inclusive of that, but I would suggest striking
23 the bracketed portion, Your Honor.

24 THE COURT: Okay. I'm going to sustain that, because
25 this seems very broad. And a lot of social media, you can just

1 go on yourself and find. So I will sustain that aspect and
2 strike that portion.

3 MS. SINGER: Those were our only objections, Judge.

4 THE COURT: Okay.

5 MS. KIRIKLAKIS: Your Honor, just to clarify, you're
6 imposing a condition that's striking the language?

7 THE COURT: Correct, striking the bracketed language
8 as requested.

9 MS. KIRIKLAKIS: Okay. Thank you.

10 THE COURT: And one more question. Forfeiture, the
11 Court did enter the preliminary order of forfeiture. Are you
12 seeking a final order of forfeiture today or not yet?

13 MR. MULANEY: No, Your Honor, although we requested
14 the preliminary order of forfeiture be attached to the
15 judgment. And I have spoken to the special agent -- Task Force
16 Officer Mike Geyer, who was in charge of the case, and he's
17 agreed that we will not destroy the firearm until the appeal is
18 resolved.

19 THE COURT: So the preliminary order of forfeiture
20 will become part of the J&C in the case.

21 Mr. Morales, in sentencing you the Court looks to the
22 factors in Section 3553(a). And the sentence the Court is
23 going to impose will be sufficient but not greater than
24 necessary to comply with the purposes behind those factors.

25 The first factor is the nature and circumstances of

1 the offense. This is a serious offense. You are a felon. You
2 cannot possess a firearm. You possessed a firearm. It was
3 loaded.

4 As I have indicated, by a preponderance of the
5 evidence, the government has established that you shot the gun.
6 Your fingerprints were on it. Your DNA was on it. I heard all
7 of the evidence here. This is a very serious offense.

8 The next factor is the history and characteristics of
9 the defendant. In reading through everything, Mr. Morales,
10 it's clear you went through a very tragic event as a child with
11 the burning and something, as your lawyer said, that no child
12 should ever go through, no person should ever have to go
13 through. And I am sure that that has had a significant impact
14 on you. I have no doubt that has impacted you, not just
15 physically but has had mental impact as well, as your lawyer
16 has argued. And I am certainly going to consider that in
17 imposing the sentence in this case.

18 You have -- as noted in the courtroom, you have very
19 strong family support and a lot of people here who care for you
20 and care for your well-being. That is clear. I will take the
21 comments of Ms. Morales and Ms. Waller into consideration in
22 sentencing you and certainly the family support and structure
23 that you have in the courtroom, which is helpful to see,
24 because when you're released, having that structure, support is
25 good for you.

1 Although the number of arrests, I agree, as you
2 indicated, Ms. Singer, they are just arrests. I certainly
3 can't ignore the criminal history here. You have a lengthy
4 criminal history, Mr. Morales, that is troubling to the Court,
5 especially in light of some of the convictions that you have
6 and the dangerous nature of some of the convictions that you
7 have.

8 And while you have every right to maintain your
9 innocence and have the right to appeal, which I will tell you
10 about at the end of this, I do have some concern that I have
11 not heard any acceptance of responsibility for your conduct or
12 remorse for the conduct. But I understand you have a right to
13 maintain your innocence and certainly will not hold that
14 against you.

15 From everything I can see, you are a good father and
16 a good brother and a good son, and you care for your family,
17 and you want to take care of them. I am -- I have had many
18 defendants come before me who have been sentenced who have
19 nobody in the courtroom for them. And when I see the support
20 coming for you in the courtroom here, I have to shake my head a
21 bit and think, how did you get yourself in this position and
22 how have you gone back and continued to go out and commit
23 additional crimes?

24 Your criminal history concerns me and the fact that
25 you have served other criminal sentences, and it has not

1 deterred you from going back out and engaging in additional
2 criminal conduct and conduct with a firearm. That is troubling
3 to the Court, because I worry that the same thing could happen
4 again, that you could recidivate based on your history and what
5 you have done in the past.

6 I am also considering the arguments that have been
7 submitted. You no doubt had a tough childhood, Mr. Morales,
8 and have been through a hard time as a child and trying to
9 protect your siblings and living in conditions that children
10 shouldn't have to live in.

11 Your lawyer has argued that you have been targeted by
12 the Evanston Police Department. I am not putting any weight on
13 that factor. I have not seen any evidence that you have been
14 targeted by the Evanston Police Department. And several of
15 your convictions here came from other jurisdictions, not
16 Evanston, from Lincolnwood and Chicago, which -- well, I will
17 leave it at that. I am not considering that factor as any type
18 of a mitigating factor here.

19 Your lawyer has also raised some arguments about
20 deterrence from a lengthy sentence and the fact that the social
21 science literature doesn't support that a lengthy sentence
22 imposes deterrence. And I have read that social science
23 literature. I agree with what Judge Chang said, that this
24 relevance applies more to policy-makers than to picking
25 individual sentences. But significantly here that argument

1 might have more strength if you were here for your first time
2 appearing in the criminal justice system and didn't have any
3 kind of prior convictions or any kind of prior sentences. But
4 given that your prior sentences have not deterred you from
5 going out and engaging in this activity, the social science
6 research does not seem particularly relevant to the Court in
7 this case.

8 I have also considered the argument with respect to
9 the conditions of your confinement and the additional
10 challenges COVID has brought to you and being incarcerated
11 during COVID.

12 I understand COVID has brought additional challenges
13 for everybody who is incarcerated. I haven't seen any evidence
14 here and you haven't put forth any that the conditions were
15 extraordinarily harsh or unusually harsh, but I understand the
16 argument that you are making about it.

17 I will and my sentence that I am going to impose will
18 reflect credit for the 51 days you served in state time. So I
19 am going to lower -- I am actually going to lower your sentence
20 by about 60 days from what I would impose to give you credit
21 for that state time. And the J&C will reflect that I have
22 already given you credit for state time.

23 It has been my experience that if I simply make a
24 recommendation and do not do the calculation and give the
25 credit myself, that defendants don't always get that credit

1 from BOP and that you end up back in here asking for the Court
2 to do something additional that may or may not work.

3 So the cleanest thing and the most certain route is
4 for me to give that departure up-front to you, and that's what
5 I am going to do -- or not departure but to give you that
6 credit up-front, and the Court's sentence will reflect that.

7 The sentence the Court is going to impose will also
8 reflect the seriousness of the offense, which is a serious
9 offense, promote respect for the law, and provide just
10 punishment for the offense. It will afford adequate deterrence
11 to criminal conduct. It is -- as I have said, your prior terms
12 of incarceration have not deterred you from going out and
13 engaging in additional conduct, and I am mindful of that and
14 also mindful of the general deterrence that the sentence can
15 have.

16 It will also protect the public from further crimes
17 by you. That is a relevant factor to the Court, Mr. Morales.
18 I hope what you have said to me is correct. I hope you meant
19 it when you said you were tired of this and you get --

20 THE DEFENDANT: I am. I'm sorry.

21 THE COURT: I hope you meant that and that you take
22 advantage of all of this family support that you have in this
23 courtroom, and when you're released you get yourself on a
24 straight-and-narrow path.

25 You are at a fork in the road. You are a relatively

1 young man, but you are old enough to know better. So when you
2 are released from this sentence, you can go one path or you can
3 go another path. And I hope you don't take the path that
4 brings you back before the Court again. The choice is yours,
5 and it will be up to you. You are an intelligent man. I hope
6 for your sake as well as for your kids' sake that you decide to
7 take the right path and the right fork.

8 Your time at incarceration, hopefully you will take
9 advantage of educational opportunities that are offered to you
10 and vocational opportunities that are offered to you,
11 Mr. Morales, so that when you are released from prison that you
12 will have those skills and that education that you can put to
13 productive use and to good use, again, both for yourself and
14 for your family members.

15 Before I impose the amount of time, I want to
16 review -- just go back through the conditions. Were there any
17 other objections to any conditions of confinement?

18 MS. SINGER: No, Your Honor.

19 THE COURT: Okay. I've addressed all of your
20 objections?

21 MS. SINGER: Yes.

22 THE COURT: And have I addressed all of your
23 arguments in mitigation, Ms. Singer? Is there anything else
24 that you would like me to address? Is there anything else you
25 would like me to elaborate on that you don't feel like I have

1 sufficiently addressed?

2 MS. SINGER: No, Your Honor.

3 THE COURT: Again, I have tried to address all of
4 your arguments in mitigation, but if there's something else you
5 want me to add more to or address sufficiently if you don't
6 think I have, I am happy to do it.

7 MS. SINGER: No, Your Honor. Nothing further.

8 THE COURT: Okay. Thank you.

9 So for all of those reasons, again, the sentence the
10 Court is going to impose will be sufficient but not greater
11 than necessary to comply with the purposes that I have just
12 reviewed. And this sentence, again, does give you the credit
13 for the time that was served in state custody.

14 Pursuant to the Sentencing Reform Act of 1984, it is
15 the judgment of this Court, Mr. Morales, that you are hereby
16 committed to the custody of the Bureau of Prisons to be
17 imprisoned for a term of 94 months on Count One. You must pay
18 a special assessment of \$100. Any fine is hereby waived.

19 Upon your release from imprisonment, you shall be
20 placed on supervised release for a term of three years on Count
21 One. Within 72 hours of your release from the custody of the
22 Bureau of Prisons, you shall report in person to the probation
23 office in the district to which you are released.

24 While on supervised release, you shall comply with
25 the mandatory, discretionary, and special conditions that I am

1 about to review with you.

2 You shall not commit another federal, state, or local
3 crime. You shall not unlawfully possess a controlled
4 substance. You shall cooperate in the collection of a DNA
5 sample if such a collection is required by law.

6 You shall refrain from any unlawful use of a
7 controlled substance and submit to one drug test within 15 days
8 of release on supervised release and at least two periodic
9 tests thereafter up to 104 periodic tests for use of a
10 controlled substance during each year of supervised release.

11 You shall provide financial support to any dependents
12 if you are financially able to do so.

13 You shall seek and work conscientiously at lawful
14 employment, or if you are not gainfully employed, you shall
15 pursue conscientiously a course of study or vocational training
16 that will equip you for employment.

17 You shall not knowingly meet or communicate with any
18 person whom you know to be engaged or planning to be engaged in
19 criminal activity and shall not knowingly meet or communicate
20 with Twan Daniels-Robinson.

21 You said yourself you've been hanging around with the
22 wrong people, so you should not knowingly, as I just said,
23 communicate with anybody along these lines.

24 You shall refrain from any excessive use of alcohol,
25 which is defined as having a blood alcohol concentrate of

1 greater than .08 percent, or from any use of a narcotic drug or
2 other controlled substance, as defined by Section 102 of the
3 Controlled Substances Act, without a prescription by a licensed
4 medical practitioner.

5 You shall not possess a firearm, destructive device,
6 or dangerous weapon.

7 You shall participate at the direction of a probation
8 officer in a mental health treatment program and shall take any
9 medications prescribed by the mental health treatment provider.

10 You shall not knowingly leave from the federal
11 judicial district where you are being supervised unless granted
12 permission to leave by the Court or a probation officer.

13 The geographic area of the Northern District of
14 Illinois currently consists of the Illinois counties of Cook,
15 DuPage, Grundy, Kane, Kendall, Lake, LaSalle, Will, Boone,
16 Carroll, DeKalb, Jo Daviess, Lee, McHenry, Ogle, Stephenson,
17 Whiteside, and Winnebago.

18 You shall report to the probation office in the
19 federal judicial district to which you are released within 72
20 hours of your release from imprisonment.

21 You shall thereafter report to a probation officer at
22 reasonable times as directed by the Court or the probation
23 officer.

24 You shall permit a probation officer to visit you at
25 any reasonable time, at home, work, school, a community service

1 location, other reasonable location specified by your probation
2 officer. And you shall permit confiscation of any contraband
3 in plain view of the probation officer.

4 You shall notify your probation officer within 72
5 hours after becoming aware of any change in your residence,
6 employer, or workplace and absent constitutional or other legal
7 privilege, answer inquiries by a probation officer.

8 You shall answer truthfully any inquiries by a
9 probation officer subject to any constitutional or other legal
10 privilege.

11 You shall notify your probation officer within 72
12 hours if -- after being arrested, charged with a crime, or
13 questioned by a law enforcement officer.

14 You shall satisfy other special conditions, including
15 you shall submit your person, property, house, residence,
16 vehicle, papers to a search conducted by the United States
17 Probation Office or officer. Failure to submit to a search may
18 be grounds for revocation of release. You shall warn other
19 occupants that the premises may be subject to searches pursuant
20 to this condition.

21 An officer may conduct a search pursuant to this
22 condition only when reasonable suspicion exists that you have
23 violated a condition of your supervision and that the areas to
24 be searched contain evidence of this violation. Any search
25 must be conducted at a reasonable time and in a reasonable

1 manner.

2 In addition, if you have not obtained your high
3 school diploma or equivalent, you shall participate in a
4 general educational development or GED preparation course and
5 seek to obtain a GED within the first year of your supervision.

6 I strongly encourage you, Mr. Morales, that while you
7 are incarcerated, if you don't have your GED, to take the
8 courses while you are incarcerated. You will have the time.
9 They have excellent programs for this and get your GED before
10 you leave incarceration. It will help you with jobs. It will
11 help you with a lot of things. It will be a good role model
12 for your kids.

13 You shall participate in an approved job-skill
14 training program at the direction of a probation officer within
15 the first 60 days of placement on supervision. You shall, if
16 unemployed after the first 60 days of supervision or if
17 unemployed for 60 days after termination or layoff from
18 employment, perform at least 20 hours of community service per
19 week at the direction of and in the discretion of the U.S.
20 Probation Office until gainfully employed. The amount of
21 community service shall not exceed 250 hours per year.

22 You shall not enter into any agreement to act as an
23 informer or special agent of a law enforcement agency without
24 the permission of the Court.

25 I will, as I said, make the preliminary order of

1 forfeiture part of the J&C in this case.

2 And before I advise Mr. Morales of his right to
3 appeal, is there anything else for the Court or -- there aren't
4 additional counts. Is there anything else for the Court?

5 Any recommendation of a place to serve his time?
6 Would you like as close to Chicago as possible so he can be
7 near his family?

8 (Discussion off the record between Ms. Singer and the
9 defendant.)

10 MS. SINGER: Judge, can I have one moment?

11 THE COURT: Yes, you may.

12 (Discussion off the record between Ms. Singer and the
13 defendant.)

14 MS. SINGER: Yes, Judge, a recommendation as close to
15 Chicago.

16 THE COURT: Okay. I will recommend that you serve
17 your time as close to Chicago as possible so that you can be
18 near your family and your children. All I can do is recommend.
19 It will be up to the Bureau of Prisons to determine where you
20 serve that time, but I will recommend it.

21 Is there anything else from the government before I
22 advise him of his appellate rights?

23 MR. MULANEY: Nothing further, Your Honor.

24 THE COURT: And nothing else, Ms. Singer?

25 MS. SINGER: No, Your Honor.

1 THE COURT: Mr. Morales, you have the right to appeal
2 both your conviction and your sentence in this case. If you
3 wish to do so, you have 14 days to file a notice of appeal, and
4 you could speak with Ms. Singer about how to go about doing
5 that.

6 I have given you somewhat of a break here today,
7 Mr. Morales. I wish you the best of luck. I hope I don't see
8 you here again. Again, I hope what you have told me, that you
9 really mean. And look around. I hope for the members in this
10 courtroom who have come today to support you that you really
11 mean that and that you carry that out.

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Good luck to you, sir.

14 MS. SINGER: Thank you, Your Honor.

15 THE CLERK: All rise.

16 (Proceedings concluded.)

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1 C E R T I F I C A T E
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4 I, Nancy L. Bistany, certify that the foregoing is a
5 complete, true, and accurate transcript, to the best of my
6 ability, from the record of proceedings on June 10, 2022,
7 before the HON. AMY J. ST. EVE in the above-entitled matter.

8
9
10 /s/ Nancy L. Bistany, CSR, RPR, FCRR

July 29, 2022

11 Official Court Reporter
12 United States District Court
13 Northern District of Illinois
14 Eastern Division

Date

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